

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

NATIONAL PROGRAMMING SERVICE,)
LLC,)
)
Plaintiff,)
)
v.) CASE NO. 1:06-cv-1754-DFH-TAB
)
DECISIONMARK CORP.,)
)
Defendant.)

TEMPORARY RESTRAINING ORDER WITH NOTICE

For reasons stated on the record after a hearing on December 11, 2006, the court hereby ORDERS defendant Decisionmark Corporation: (a) to rescind its suspension of services under the Software Licensing Agreement dated November 28, 2006 with plaintiff National Programming Service, LLC; (b) to resume immediately providing to plaintiff National Programming Service, LLC the services that Decisionmark was providing prior to December 5, 2006 under the Software Licensing Agreement dated November 28, 2006, and all other services to which plaintiff is entitled under that agreement; and (c) to restore immediately plaintiff's access to the eligibility server pursuant to that agreement. This order is subject to the following conditions:

1. This order applies to Decisionmark Corporation and its officers, agents, servants, employees, and attorneys, and to any persons in active concert

or participation with them who receive actual notice of this order by personal service or otherwise.

2. This order is conditioned upon plaintiff National Programming Service, LLC posting security no later than 5:00 p.m. on December 12, 2006 with this court in the amount of One Hundred Thousand Dollars (\$100,000.00), pursuant to Rule 65(c) of the Federal Rules of Civil Procedure, as security for payment of such costs and damages as may be incurred or suffered by Decisionmark Corporation if it is later found to have been wrongfully enjoined or restrained.

3. This order shall be in effect for ten days unless earlier terminated or modified. This order shall terminate immediately, however: (a) if any court with jurisdiction over Decisionmark orders it to cease and desist from providing services under the Software License Agreement, and/or (b) if a court rules in *CBS Broadcasting Inc. et al. v. EchoStar Communications Corp., et al.*, Case No. 1:98-cv-2651-WPD, pending in the United States District Court for the Southern District of Florida, that National Programming Service's activities in offering distant network programming under the Satellite Home Viewer Act, 17 U.S.C. § 119, pursuant to the Echostar Satellite Operating Corporation Satellite Transponder Service Agreement dated November 29, 2006, violate any order issued in that case.

So ordered.



Date: December 11, 2006

Time: 7:30 p.m. EST

DAVID F. HAMILTON, JUDGE
United States District Court
Southern District of Indiana

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